



FEATURES THIS MONTH

1. Insurance Premiums Rising?
2. The Taxman Speaks
3. Getting Access to Strata Lots

NEED GOOD SITES FOR STRATA CORPORATION INFORMATION?

Here are some sites you can access:

Strata U. - Continuing Education Department web site links of interest:

- Canadian Condominium Institute: <http://www.cci.ca>
- Condominium Home Owners Association: <http://www.choa.bc.ca/index.html>
- Clark, Wilson, Barristers & Solicitors: <http://www.cwilson.com/stratafaq>
- *Strata Property Act* information web site: http://www.qp.gov.bc.ca/statreg/stat/S/98043_01.htm
- Vancouver Condominium Services: <http://www.vancondo.com>



1. Insurance Premiums Rising?

The vast majority of strata corporations managed by VCS have their insurance policies on a calendar year basis. When the 2008 renewals came up last December, not many policies had increases in rate premiums. Over the past two years the total premiums paid have been higher than in the past as a consequence of increased valuations arising from the construction boom. The 'rates per 100' have been relatively stable.

We are now well into 2008 and note that upcoming renewals for the policies not on the calendar year are reflecting rate hikes. We have received confirmation from the leading broker, BFL Canada, that it is reasonable to assume there will be higher rates through 2008 and there is every expectation that 2009 rates will be significantly higher. Of course, we will not know for sure about 2009 rates until late this year; however, VCS is advising all its clients to commence budgeting at least a 10% increase in premium alone. We also advocate a further 10% increase just to cover the increased value of the property. A recent example is one of our properties in Richmond, a 100-unit complex previously insured at a value of \$13,800,000. The new appraisal came in at \$15,200,000 - roughly 10%. This trend is very likely to persist for the next several years.

In other words if you are preparing a budget for 2008/2009 (or late this year for 2009) you would be wise to factor a 20% increase in the insurance line. For Richmond properties we have been informed that premiums will likely be even higher in the coming years as underwriters are (once again) expressing concern about the 'flood plain' risk. No specific percentages have been offered but the rumblings are evident.

At this time, there has been no word on the status of deductibles, which suggests that they will remain more or less as you see on your current policy. We remind our clients that deductibles are related to claims. The more you have, the higher the deductible. The most common claim in strata corporations is for water escape. Many strata corporations have a water deductible of \$5,000 or \$10,000 as a result of excessive claims. If your deductible is \$2,500 consider that to be very good and do whatever possible to guard against excessive losses. Admittedly this is hard to control.



Earthquake coverage remains with deductibles at 10% (of the value of your strata corporation) except for a few isolated places in Vancouver and all of Richmond. In these areas deductibles are running at 15% or 20%. We have not been alerted as to any changes in these levels although we are aware of the continuing off-the-record nervousness with the underwriters that there are insufficient reserves to meet all the claims in case of a large quake.

This article does not purport to offer a legal opinion. Readers are advised to obtain legal counsel. This article is published by Vancouver Condominium Services Ltd. and is copyrighted. Reprinting without written consent from VCS would violate the copyright.

2. The Taxman Speaks - A Not So Friendly Warning From Canada Revenue Agency

VCS recently received a letter from the Canada Revenue Agency (CRA) (formerly Revenue Canada Taxation), advising that they are in a zero-tolerance mood in respect of late filings of your strata corporation's annual tax returns.

It often comes as a surprise to our clients that strata corporations are subject to CRA and the *Income Tax Act* of Canada. You are, even though a strata corporation is a non-profit organization, even though nothing is sold, and even though there is no profit generated. Such details are meaningless to the good folks in the tax collection business so that is why strata corporations must annually file a T-2 Return and, as well, a T-1044 Return if certain criteria apply.

A T-2 Return is a tax return (Full name is T2 Corporation Income Tax Return) used to calculate federal and provincial taxes for all corporations for every tax year. Filing is required by all corporations including non-profit and tax-exempt corporations. A strata corporation is considered by the CRA as a potential taxpayer.

A T-1044 Return (Full Name is Non-Profit Organization (NPO) Information Return) is an information return for Non-Profit Organizations that must be filed if the following three criteria are met:

1. The organization received or was entitled to receive taxable dividends, interest, rentals or royalties of more than 10K in the fiscal period.



2. The organization owned assets valued at or more than 200K at the end of the immediately preceding fiscal period, or
3. The organization had to file a T1044 for a previous fiscal period.

These returns must be filed with CRA not later than six months from your strata corporation's fiscal year-end.

The letter from CRA we refer to above was in respect to four strata corporations that were late in their filings last year (March 31/07 year ends). CRA stated that it “*did not assess late filing penalties*” but “*in future if your organization fails to file on time, it will be subject to a late filing penalty of \$25 a day*” with a minimum penalty of \$100. Repeat: \$25 per day.

VCS reviewed the four files that generated the CRA letter. Did VCS fumble the ball and forget to file on time? If so, VCS would be liable to pay the fine. On analysis, however, it turned out that in each of the files, the strata councils had refused to approve their audits, and in each case, no reasons were given by council why they would not approve their audits. The approvals just kept getting bumped from one meeting to the next. In one case (a strata corporation no longer managed by VCS), the council Treasurer is still “reviewing” VCS financial statements from 2006 - he does his own spread sheet to reconcile to the VCS financial statement and he is “busy” and does not have time to finish the task. Well, that's fine, but from now on, given CRA's stern warning, strata councils will have to balance such delays against the long arm of the law. It must be said that VCS will not be paying any CRA penalties (\$25 per day) as a consequence of late filing if a strata council does not approve their annual audit. (For those strata councils that do not have annual audits done, VCS automatically files the T2 and T1044 if applicable after your fiscal year-ends.

This article does not purport to offer a legal opinion. Readers are advised to obtain legal counsel. This article is published by Vancouver Condominium Services Ltd. and is copyrighted. Reprinting without written consent from VCS would violate the copyright.

3. Getting Access to Strata Lots

There are myriad reasons throughout the year where access may be required to all or to only specific units (strata lots). Access may be required to all units to perform regular or general maintenance such as annual fire device testing or dryer vent cleaning and to only specific units to get to roof anchors or vertical drain access points for cleaning. *Division 2 (Powers and Duties of Strata Corporation)* of the *Schedule of Standard Bylaws of the Strata Property Act* defines what property must be repaired and maintained by the strata corporation. The aim of this article is to address how access is properly and legally gained and what may be done when the owner/tenant does not provide access to address important maintenance or even attend to emergencies such as water escape.

While the numbering may be different and additional information may be included, all strata corporations have some form of the following bylaw taken from the *Schedule of Standard Bylaws of the Strata Property Act*:

Permit entry to strata lot

7 (1) An owner, tenant, occupant or visitor must allow a person authorized by the strata corporation to enter the strata lot

(a) in an emergency, without notice, to ensure safety or prevent significant loss or damage, and

(b) at a reasonable time, on 48 hours' written notice, to inspect, repair or maintain common property, common assets and any portions of a strata lot that are the responsibility of the strata corporation to repair and maintain under these bylaws or insure under section 149 of the Act.

(2) The notice referred to in subsection (1) (b) must include the date and approximate time of entry, and the reason for entry.

When an item of general maintenance is scheduled, let's use the annual fire testing as an example, VCS will note the date and time in the minutes (when time allows), send notice to non-resident owners (and to resident owners if instructed by council) and post notices at the building well in advance of the work. This action satisfies bylaw 7(1)(b) by providing more than 48 hours

notice to advise of the need to gain access to the unit. It is extremely rare that access is provided to all units during the first attempt, so there are usually follow up dates for additional inspections (which may be charged back to owner accounts if the bylaws provide for that); however, the point is that this is how the need for access to address non-emergency items is usually addressed.

So what may be done in the case of the suite where access was not provided for the fire device inspection last year and they are making no efforts this year? It is dependant on the municipality as to whether 100% inspection is required every year, but most strata councils aim for this as it is in the best interests for the safety of the ownership. Pressure may be brought upon the owner to comply by ensuring your bylaws allow for costs related to subsequent inspections to be charged to their account.

The foregoing deals with access for general maintenance, now what about emergencies such as water pouring down for a suite into the units below? The bottom line here is that if access is not provided in short order (see 7(1)(a) above), it will be achieved one way or the other and the owner may be held responsible for any related costs. In the case of water escape, a locksmith will likely be called to assist... in the case of a fire, the door will be knocked down and the owner will be shopping for a new one. The charging back of costs related to gaining access may be addressed by amending the above noted bylaw to include the following:

7 (3) If forced entry to a strata lot is required due to required emergency access and the inability to contact the owner of the strata lot, the owner shall be responsible for all costs of forced entry incurred by the strata corporation. To avoid forced entry, owners are encouraged to leave a key with the independent security provider.

The last line brings up an additional possibility for dealing with access. While it can be an administrative challenge for buildings that do not have some type of caretaker or on-site staff, owners may be encouraged to provide an access key to be kept securely on site (with a corresponding code for the unit numbers so each key is not marked with the unit number if lost). In the case of an emergency while the resident may be away or unable to provide access, this can alleviate the need of calling a locksmith or banging down the door. Almost every building can cite an example where problems were not mitigated as quickly as possible because a unit could not be entered swiftly and many of our buildings have owners that are away for lengthy periods of time which can create a real problem if there is an emergency.



Owners that do not wish to provide a key to their unit often state that they do not want someone else having the opportunity to abuse this system. The situations where the key may be used for access can be detailed in a bylaw amendment to the example of Bylaw 7 given above. Here is an example of wording for a bylaw addition that may be worthwhile if yours is a building where access to units is a common issue:

7 (4) In order to secure compliance with section 7.1 hereof, all residents shall provide the Security Desk/Caretaker/Strata Council with a key for all door locks in use at each unit, including but not limited to the front door. The use of the key for entry must be to address what is believed to be an emergency and must be noted in the security log book. The strata corporation shall be entitled to obtain reimbursement for any costs and expenses incurred as a result of any violation hereof.

This article does not purport to offer a legal opinion. Readers are advised to obtain legal counsel. This article is published by Vancouver Condominium Services Ltd. and is copyrighted. Reprinting without written consent from VCS would violate the copyright.